IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1064/2006
(Mohan Lal Singhal Vs. State of Rajasthan & Anr.)

Date of Order : 11/12/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Amitabh Acharya for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.
Mr. M.L.Khatri for the non-petitioner No.2.

BY THE COURT:-

Heard learned counsel for the parties. Perused the order impugned.

The order dated 09.06.2006 passed by Additional Chief Judicial Magistrate (Economic Offence), Jodhpur (for short 'the trial court' hereinafter) has been impugned in the instant criminal misc. petition under Section 482 Cr.P.C. by the petitioner who is facing prosecution under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act' hereinafter) whereby the substance of accusation was stated to the petitioner.

It is contended by learned counsel for the petitioner that the cheque which alleged to have been issued by the petitioner was in fact lost on 16.2.1998 and the report of the

same was lodged with the police on 5.6.98.

Learned counsel for the non-petitioner submits that the cheque on being issued by the petitioner to the non-petitioner, it was sent for encashment to the bank but was received unpaid on having been dishonoured on account of closure of account. A notice was served on the petitioner demanding the cheque amount within 15 days from the date of receipt of the notice by notice dated 23.5.98 and notice has been received by the petitioner. After having received the notice, the petitioner lodged a report and after investigation, the police filed a negative final report.

Be that as it may, these are the questions which are to be decided in the trial including alteration in the cheque, loss of cheque etc. It will be open for the petitioner to agitate in the case instituted against him before the trial court that the cheque in question was not issued by him, the cheque was lost or altered and that the cheque was not issued for discharge of any legal liability or debt, but at the stage of stating accusation, I do not find any ground to interfere.

The petition has no force and it is therefore, dismissed. Interim stay order dated 1.9.2006 stands vacated.

(H.R.PANWAR),J.

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